

SENATE BILL REPORT

SB 5043

As of January 31, 2025

Title: An act relating to industrial insurance coverage for posttraumatic stress disorders affecting correctional facility workers.

Brief Description: Concerning industrial insurance coverage for posttraumatic stress disorders affecting correctional facility workers.

Sponsors: Senators Dhingra, Nobles, Conway, MacEwen, Saldaña, Lovick, Salomon, Stanford, Wagoner, Wilson, J., Shewmake, Trudeau, Valdez, Bateman, Lias, Chapman, Lovelett, Cleveland, Frame, Hasegawa, Orwall, Slatter, Wellman and Wilson, C..

Brief History:

Committee Activity: Labor & Commerce: 1/31/25.

Brief Summary of Bill

- Excludes certain correctional facility workers from the Department of Labor and Industries rule that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease for industrial insurance (workers' compensation) purposes.
- Creates a rebuttable presumption that post-traumatic stress disorder is an occupational disease under workers' compensation for certain correctional facility workers.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Susan Jones (786-7404)

Background: Workers' Compensation. Under the state's industrial insurance (workers' compensation) laws, a worker who is injured or suffers disability from an occupational

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disease in the course of employment is entitled to certain benefits. An occupational disease is one that arises naturally and proximately out of employment.

Mental Conditions or Disabilities Caused by Stress Excluded from Occupational Disease.

The Department of Labor and Industries (L&I) was required to adopt a rule that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease. The L&I rule provides that these stress-caused mental conditions or disabilities claims do not fall within the definition of an occupational disease. Examples in the rule of mental conditions or mental disabilities caused by stress that do not fall within occupational disease include those conditions and disabilities resulting from:

- change of employment duties;
- conflicts with a supervisor;
- actual or perceived threat of loss of a job, demotion, or disciplinary action;
- relationships with supervisors, coworkers, or the public;
- specific or general job dissatisfaction;
- work load pressures;
- subjective perceptions of employment conditions or environment;
- loss of job or demotion for whatever reason;
- fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
- objective or subjective stresses of employment;
- personnel decisions; or
- actual, perceived, or anticipated financial reversals or difficulties occurring to the businesses of self-employed individuals or corporate officers.

Under this rule, stress resulting from exposure to a single traumatic event, such as actual or threatened death, actual or threatened physical assault, actual or threatened sexual assault, and life-threatening traumatic injury, may be considered an industrial injury. These exposures must occur in one of the following ways:

- directly experiencing the event;
- witnessing, in person, the event as it occurred to others; or
- extreme exposure to aversive details of the event.

Repeated exposure to traumatic events, none of which are a single traumatic event, is not an industrial injury or an occupational disease. A single traumatic event that occurs within a series of exposures may be considered an industrial injury.

Exclusion from the Labor and Industries Rule for Certain First Responders and Nurses. The rule adopted by L&I does not apply to occupational disease claims resulting from posttraumatic stress disorders of certain firefighters, law enforcement officers, public safety telecommunicators, and direct care registered nurses under specified circumstances.

Posttraumatic stress disorder is not considered an occupational disease if the disorder is directly attributed to disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by an employer. "Posttraumatic stress

disorder" means a disorder that meets the diagnostic criteria for posttraumatic stress specified by the American psychiatric association in the diagnostic and statistics manual of mental disorders, fifth edition, or in a later edition as adopted by L&I in rule.

Presumption of Posttraumatic Stress Disorder as an Occupational Disease for Certain First Responders and Nurses. There is a prima facie presumption that posttraumatic stress disorder is an occupational disease for certain firefighters, law enforcement officers, and direct care registered nurses who are covered for workers' compensation. This presumption of occupational disease may be rebutted by a preponderance of the evidence. Such evidence may include, but is not limited to, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

The presumption is extended following termination of service or employment for a period of three calendar months for each year of requisite service or employment, but not beyond 60 months following the last date of employment.

The presumption only applies to active or former firefighters and law enforcement officers who have posttraumatic stress disorder that develops or manifests itself after the individual has served at least ten years and for direct care registered nurses after the individual has been employed on a fully compensated basis as a direct care registered nurse in Washington State for at least 90 consecutive days.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Exclusion from the Labor and Industries Rule for Certain Correctional Facility Workers. The L&I rule that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease for workers' compensation purposes does not apply to occupational disease claims resulting from posttraumatic stress disorders of correctional facility workers. This exclusion from the L&I rule only applies to a correctional facility workers who has posttraumatic stress disorder that develops or manifests itself after the individual has been employed on a fully compensated basis as a correctional facility workers in Washington State for at least 90 consecutive days.

Posttraumatic stress disorder is not considered an occupational disease for these workers if the disorder is directly attributed to disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by an employer.

Presumption of Posttraumatic Stress Disorder as an Occupational Disease for Certain Correctional Facility Workers. For correctional facility workers covered under workers' compensation who are employed on a fully compensated basis, there is a prima facie presumption that posttraumatic stress disorder is an occupational disease. The presumption may be rebutted by a preponderance of the evidence.

This presumption only applies to a correctional facility worker who has posttraumatic stress disorder that develops or manifests itself after the individual has been employed on a fully compensated basis as a correctional facility workers in Washington State for at least 90 consecutive days.

The presumption extends to a claimant following termination of employment for three calendar months for each year the claimant was a correctional facility worker employed on a fully compensated basis, but not beyond 60 months following the last date of employment.

In a board of workers' compensation or court appeal, if the final decision allows the claim for benefits, the board or court must order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the claimant by the opposing party. When reasonable costs of the appeal must be paid by L&I under this section in a state fund case, the costs must be paid from the accident fund and charged to the costs of the claim.

Correctional facility worker means an employee of the Department of Corrections working at a correctional facility where persons sentenced to the jurisdiction of the Department of Corrections are in total confinement. Correctional facility does not include any facility or institution operated by contract by the secretary of the Department of Corrections.

Appropriation: None.

Fiscal Note: Requested on January 14, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2026.